

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants,

DR. REGINA FROST and CHRISTIAN
MEDICAL AND DENTAL
ASSOCIATIONS,

Defendants-Intervenors.

Civil Action Nos.

1:19-cv-4676 (PAE) (lead)

1:19-cv-5433 (PAE) (consolidated)

1:19-cv-5435 (PAE) (consolidated)

PLAINTIFFS' NOTICE OF CROSS-MOTION

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and declarations, Plaintiffs' pleadings and papers on file in these consolidated actions, and State Plaintiffs' memorandum of law and accompanying declarations filed today, Plaintiffs, by their undersigned counsel, will move this Court, before the Honorable Paul A. Engelmayer, United States District Court Judge, at the Thurgood Marshall United States Courthouse, 40 Foley Square, Courtroom 1305, New York, New York, for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure for summary judgment on their claims against the regulation entitled Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23,170 (May 21, 2019) (to be codified at 45 C.F.R. pt. 88), promulgated by Defendant the U.S. Department of Health and Human Services, and that pursuant to 5 U.S.C. § 706 the Rule be "h[e]ld unlawful and set aside," and for such other and further relief as the Court deems just and proper. In the alternative, Plaintiffs will

move for an order pursuant to Rule 65(a) of the Federal Rules of Civil Procedure and 5 U.S.C. § 705 for a preliminary injunction barring Defendants from implementing and enforcing the regulation to preserve the status quo until this case is decided on the merits and final judgment is entered.

Dated: September 5, 2019

Respectfully submitted,

Diana Salgado*
Planned Parenthood Federation of America, Inc.
1110 Vermont Ave., NW Ste. 300
Washington, D.C. 20005
Tel.: (202) 973-4800
Fax: (202) 296-3480
diana.salgado@ppfa.org

Hana Bajramovic
Planned Parenthood Federation of America, Inc.
123 William St., 9th Floor
New York, NY 10038
Tel.: (212) 541-7800
Fax: (212) 247-6811
hana.bajramovic@ppfa.org

Michelle Banker
Sunu Chandy
National Women's Law Center
11 Dupont Circle, NW #800
Washington DC 20036
Tel: (202) 588-5180
Fax: (202) 588-5185
mbanker@nwlc.org
schandy@nwlc.org

Robin F. Thurston**
Kristen Miller
Democracy Forward Foundation
P.O. Box 34553
Washington, DC 20043
Tel: (202) 448-9090

/s/ Sarah Mac Dougall
Sarah Mac Dougall
Cristina Alvarez**
Covington & Burling LLP
620 Eighth Avenue
New York, NY 10018-1405
Tel: (212) 841-1000
Fax: (212) 841-1010
smacdougall@cov.com
calvarez@cov.com

Kurt G. Calia*
Marina Dalia-Hunt**
Covington & Burling LLP
3000 El Camino Real, 5 Palo Alto Square
Palo Alto, CA 94306-2112
Tel: (650) 632-4717
Fax: (650) 632-4800
kcalia@cov.com
mdaliahunt@cov.com

Ryan Weinstein
Paulina Slagter**
Covington & Burling LLP
1999 Avenue of the Stars
Los Angeles, CA 90067-4643
Tel: (424) 332-4800
Fax: (424) 332-4749
rweinstein@cov.com
pslagter@cov.com

David M. Zions*
Covington & Burling LLP

rthurston@democracyforward.org
kmiller@democracyforward.org

Counsel for Plaintiffs PPFA and PPNNE

*Admitted *Pro hac vice*

***Pro hac vice* motion forthcoming

One CityCenter
850 10th Street, NW
Washington, DC 20001
Tel: (202)662-6000
dzionts@cov.com

Counsel for Plaintiffs PPFA and PPNNE

/s/Alexa Kolbi-Molinias

Alexa Kolbi-Molinias
Lindsey Kaley
Brigitte Amiri
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Phone: (212) 549-2633
Fax: (212) 549-2652
akolbi-molinias@aclu.org
lkaley@aclu.org
bamiri@aclu.org

Daniel Mach*

American Civil Liberties Union Foundation
915 15th Street NW
Washington, DC 20005
Phone: (202) 675-2330
Fax: (202) 546-0738
dmach@aclu.org

Attorneys for Plaintiffs NFPRHA and PHS

* Admitted *Pro hac vice*

Elizabeth O. Gill*
American Civil Liberties Union
Foundation of Northern California, Inc.
39 Drumm Street
San Francisco, CA 94111
Phone: (415) 621-2493
Fax: (415) 255-8437
egill@aclunc.org

Christopher Dunn
Erin Beth Harrist
Donna Lieberman
New York Civil Liberties Union
Foundation
125 Broad Street, 19th Floor
New York, NY 10004
Phone: (212) 607-2298
cdunn@nyclu.org
eharrist@nyclu.org
dlieberman@nyclu.org

Attorneys for Plaintiffs NFPRHA and PHS